

REMARKS

Claims 1-13 and 15-17 are pending in the application and stand rejected.

Claim Rejections - 35 U.S.C. § 102(b)

The Examiner rejected claims 1-6, 8-13 and 15-17 under § 102(b) as being anticipated by Kito (JP 08237734; as indicated in the Office Action). Applicant notes the Examiner continues to refer to Kito as JP 08237734, however, the translation provided by the Examiner and the citations used within the Office Action correspond to Kito (JP 10082223; “Kito ‘223”). The undersigned contacted the Examiner who confirmed that the citation should be to Kito JP 10082223. Accordingly, the merits of the rejection based on Kito ‘223.

In the response to arguments section of this Office Action, the Examiner replies that “the device disclosed by Kito is for a theft prevention device used in cash transportation vehicles, thus if an authorized person enters the vehicle and restarts the engine after the vehicle has been stopped and the lights and the horn are on (after a theft attempt); operation of the vehicle must be granted to the qualified person holding the marker detector, since the codes will match (see figure 6.)” (*Office Action*, p. 8).

Thus, the Examiner somehow concludes that the operation of the vehicle must be granted to the qualified person holding the marker detector, since the codes will match. However, Applicant respectfully submit this position is incorrect. For instance, Kito’s system is disclosed as working as follows:

- (1) crew enters automobile, inserts an ignition key and starts the engine (**S10**) (par. [0023]; Fig. 4);
- (2) after the starting is completed, the engine 15 operates using the fuel injection equipment 13 (par. [0023]);

(3) next the system detects whether the engine speed (NE) has reached more than a predetermined rotational frequency (i.e., > 2000 rpm) (**S20**) (Fig. 4); and

(4) in step (**S40**), the IMOBI ECU 16 compares the received IMOBI code with the IMOBI code set up beforehand - if the codes do not match, actuation of the fuel injection equipment is cut by the IMOBI ECU 16 making the actuation of the engine 2 impossible.

Consequently, because Kito makes the code comparison in step (**S40**) only after the engine has been started and reached a predetermined rotational frequency in step (**S20**), no further comparisons of the codes can be made after the fuel injection equipment is cut as the actuation of the engine 2 is prevented. Therefore, the Examiner's position that "operation of the vehicle must be granted to the qualified person holding the marker detector," is incorrect.

Rather, after Kito cuts the fuel injection equipment, no further comparisons are made.

Thus, Applicant submits that no portion of Kito discloses that the disablement of the fuel injection is released after the transponder 11 is again detected by the receiver 12. Rather, Kito's method of operation indicates that this cannot possibly occur. Therefore, Kito fails to disclose, "wherein the predetermined measure is released when the marker detector again detects the qualified person marker," as recited in claim 1.

Thus, Applicant submits claim 1 is allowable over Kito for at least this reason. Additionally, Applicant submits that because claim 8 recites a feature similar to the feature set forth above with regard to claim 1, claim 8 is allowable for at least the same reasons set forth above.

Finally, Applicant submits claims 2-6, 9-13 and 15-17 are allowable, at least by virtue of their dependency.

Claim Rejections - 35 U.S.C. § 103(a)

Claim 7 is rejected under § 103(a) as being unpatentable over Kito in view of Thorpe (UK 2,395,331).

Applicant submits that because Thorpe, either taken alone or in combination with Kito, fails to compensate for the above noted deficiencies of Kito as applied to claim 1, claim 7 is allowable at least by virtue of its dependency from claim 1.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/David P. Emery/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON DC SUGHRUE/265550

65565
CUSTOMER NUMBER

David P. Emery
Registration No. 55,154

Date: December 28, 2007